

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA 01/02-3015
	)	
Environmental Recovery	)	CONSENT ORDER
Services, Inc.	)	
2650 Lime Avenue	)	
Signal Hill, CA 90806	)	
	)	
EPA ID No. CAD097030993	)	Health and Safety Code
	)	Section 25187
Respondent.	)	
_____	)	

The State Department of Toxic Substances Control (Department) and Environmental Recovery Services, Inc., a California Corporation(Respondent) enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste from the following site: 2650 Lime Avenue, Signal Hill, CA 90806 (Site)

2. The Department authorized Respondent to transport hazardous waste by Transporter Registration Number: 2804 (Registration) issued on June 20, 2001.

3. The Department alleges the following violation: The Respondent violated title 22, California Code of Regulations, section 66263.23(b) in that the Respondent failed to deliver hazardous waste to a hazardous waste facility that is authorized by the Department to receive the waste, to wit: On or about January 16, 2001, as the result of a driver error, Respondent transported four 55-gallon drums of hazardous waste to an unauthorized facility, Azusa Reclamation Landfill(a class III Landfill), located at 1201 W. Gladstone Street, Azusa, California, instead of the facility designated on the manifests, which was Onyx Environmental, located at 1704 West 1st Street, Azusa, California.

4. A dispute exists regarding the alleged violation.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the facts alleged in the violation set forth in section 3 above, but does not settle any other violations or restrict in any way the Department from taking appropriate enforcement action concerning any violations not specifically alleged herein. This Consent Order also does not limit the Department or other parties from recovering costs incurred in relation to the wastes involved in the violation.

9. Respondent does not admit the violation alleged above, except as follows: Respondent admits the facts alleged above Solely for purposes of determining penalties in connection with any action in which the Department alleges that Respondent repeated a violation alleged in section 3, for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within five years of the date the violation occurred.

#### PAYMENTS

10. Respondent shall pay the Department a total of **\$25,000.00** in four quarterly installments during the year 2003, of which **\$10,000.00** is a penalty and **\$15,000.00** is reimbursement of the Department's costs. Respondent shall commence payment of \$25,000 as follows:

**First** Payment of **\$6250.00** due on **February 28, 2003;**

**Second** Payment of **\$6250.00** due on **May 30, 2003;**

**Third** Payment of **\$6250.00** due on **August 31, 2003;**

**Fourth** Payment of **\$6250.00** due on **November 30, 2003.**

Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Phillip Blum, Acting Branch Chief  
Task Force Support & Special Investigations Branch  
1011 North Grandview Avenue  
Glendale, CA 91201

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Date: February 24, 2003 [Original signed by]  
Fred Pell, President  
Environmental Recovery Services, Inc.

Date: February 26, 2003 [Original signed by]  
Phillip Blum, Acting Branch Chief  
Task Force Support & Special  
Investigations Branch  
Department of Toxic Substances  
Control